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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,539	09/22/2003	Ric S. Joranlien		9940

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EXAMINER

DUNN, DAVID R

ART UNIT PAPER NUMBER

3616

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/667,539

Applicant(s)

JORANLIEN, RIC S.

Examiner

David Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-13 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) 17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is responsive to the amendment filed October 3, 2005. It is noted that while claim 17 is withdrawn, the claim should still be presented in its entirety as it is still pending. However, it is noted that claim 17 depended from claim 14 which has been canceled. Therefore, claim 17 should either be amended to be dependent from a pending claim or canceled.

#### ***Drawings***

1. The drawings were received on 10/03/05. These drawings are acceptable.

#### ***Specification***

2. The amendment filed 10/03/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the first two new sentences introduced to the specification in the amendment are new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-115662.

JP 11-115662 discloses a rollbar apparatus for a vehicle body for protecting occupants of the vehicle body, the rollbar apparatus comprising: a hoop (12; see Figures 1) including an inner leg and an outer leg; a further hoop (12) spaced relative to the first hoop; the further hoop having inner and outer legs; the extremities of the inner legs are supported adjacent to the vehicle body; and a joining member (11) extending between the inner legs. The joining member is supported by the body (on the sides). The apparatus includes a support leg (13) attached to the joining member and adjacent the inner legs; the support leg contacts the vehicle body; the support legs are located adjacent (nearby, i.e., relatively close position) and approximately parallel to sides of a driveshaft tunnel (5). The apparatus includes a saddle (13) comprising legs located adjacent and other each side of the driveshaft tunnel (5). The hoop further includes a top portion with a hoop bracket (14) secured to the top portion of the hoop and extending to the vehicle body (see also Figure 2b).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, 9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-115662 in view of Notestine et al. (U.S. Re. 28,876).

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JP 11-115662 is discussed above but fails to show the removable attachments.

Notestine et al. teaches a roll bar that is removable attachable to the vehicle (see column 1, lines 40-44: "bolted securement"). Notestine also teaches brace feet (12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP 11-115662 with the teachings of Notestine et al. to provide the roll bar with a removable attachment such that the roll bar could be removed as desired and to provide brace feet in order to better secure the brace to the vehicle. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the support legs to the floor of the vehicle as it has generally been held that the rearrangement of parts involves only routine skill in the art.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-115662 in view of Neubrand (US 6,217,104).

JP 11-115662 is discussed above and fails to show the joining member including upper and lower joining members.

Neubrand teaches a roll bar with a joining member comprising upper and lower members (14, 32) that are removably attached to each other.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP 11-115662 with the teachings Neubrand in order to more easily attach and remove the roll bar apparatus from the vehicle.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-115662 in view of Hobrecht (US 4,900,058).

JP 11-115662 is discussed above and fails to show the saddle being removably secured to the joining member.

Hobrecht teaches a roll bar with a saddle (30) that is removably attached (at 38; see Figure 2) to the roll bar.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP 11-115662 with the teachings of Hobrecht to provide the roll bar with a removable attachment to the saddle such that that portion of the could be removed if desired.

#### *Allowable Subject Matter*

9. Claims 16 and 18 are allowed.

#### *Response to Arguments*

10. Applicant's arguments filed 10/03/05 have been fully considered but they are not persuasive.

On page 11, Applicant argues the rejection of JP 11-115662. Applicant argues that the support legs of this reference are “shown to attach to the top of the tunnel section, and thus offer no lateral support in the case of a vehicle rollover.” In response it is noted that Applicant claims the support legs “located adjacent and approximately parallel” to the sides of the driveshaft tunnel. As discussed above, JP 11-115662 shows the support legs being “adjacent”, that is, nearby, or relatively close, to the driveshaft tunnel. Also, as seen in Figure 1, the legs are “approximately parallel” to the driveshaft tunnel.

On pages 12-13, Applicant argues the rejection of JP 11-115662 in view of Notestine. Applicant argues that these references do not show the support legs being attached to the vehicle immediately adjacent to the sides of the driveline tunnel. As discussed above, the combination of JP 11-115662 in view of Notestine shows the support legs being removable attached and it has generally been held that the rearrangement of location of parts involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

On page 14, Applicant argues the rejection of claim 13. Applicant argues that Hobrecht does not disclose a saddle. In response, it is submitted that bars 30 of Hobrecht are considered a saddle, similar to the bars 72 and 74 of Applicant's invention.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dunn', with a long horizontal stroke extending to the right.

David Dunn  
Primary Examiner  
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